

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BYUNG-RYUL RYOO
and DAE-HWAN KIM

Appeal No. 1999-1538
Application 08/661,733

ON BRIEF

Before THOMAS, LALL, and BARRY, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 5-10.

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Representative claim 5 is reproduced below:

5. An object-lens driving device for an optical pickup, comprising: a driving portion body having an object lens mounted thereon; an electromagnetic circuit attached to said driving portion body, including a fine pattern coil having a tracking coil and a focusing coil formed on a common plane; a supporting mechanism which supports said driving portion body; and a holder for mounting said supporting mechanism;

wherein said supporting mechanism includes a plurality of plate spring members, one end portion of each of said plate spring members being mounted to said holder, and an opposite end portion of each of said plate spring members being fixed to said driving portion body, for being elastically deformed either vertically or horizontally, and

further wherein said holder includes a plurality of protrusions which protrude vertically from said holder, and wherein each of said plate spring members includes a combining hole formed therein for receiving a corresponding one of said protrusions.

The following references are relied on by the examiner:

Narumi	4,927,235	May 22, 1990
Ikegame et al. (Ikegame)	5,579,176	Nov. 26, 1996
		(filing date Apr. 29, 1994)

Beginning at page 7 of appellants' principal brief on appeal, they complain that the examiner has improperly relied upon Ikegame in the final rejection in that it has not been utilized in the statement of the rejection. The examiner reopened prosecution in a paper dated April 17, 1998, in which he formally relied upon the combined teachings of Narumi and Ikegame to assert unpatentability within 35 U.S.C. § 103 as to claims 5-10 on appeal. Appellants filed a supplemental appeal brief on July 16, 1998. The answer responds to

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arguments appellants presented in the brief and supplemental brief as to the examiner's reliance upon Narumi and Ikegame as evidence of unpatentability within 35 U.S.C. § 103 of claims 5-10.

Rather than repeat the positions of the appellants and the examiner, reference is made to the briefs and the answer for the respective details thereof.

OPINION

We sustain the rejection of claims 5-7 but reverse the rejection of claims 8-10 under 35 U.S.C. § 103.

As to independent claim 5, we agree with the examiner's views that Narumi essentially teaches the substance of the subject matter of independent claim 5 on appeal except for the particular details of the attaching means of the end portions 41 of the plate spring members 7 in Narumi, further relying upon the examiner-noted teachings and showings in Ikegame.

The focus of the arguments as to claim 5 relies upon the feature of the holder including a plurality of protrusions which protrude vertically from the holder and the additional feature where each of the plate spring members includes a combining hole formed therein for receiving a corresponding one of the protrusions.

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In affirming the rejection of independent claim 5, we do not agree with appellants' assessment of the teachings and showings in Narumi. Figure 1 of this reference shows fixed member 8, which the examiner correlates to the claimed holder. There is no corresponding showing of this element 8 in Figure 9, which the examiner relies upon specifically. What is most telling in Figure 9 is the unidentified illustration within the pad portion 41 of the supporting member 7 of a circular hole-like structure. These are obviously used to attach the entire supporting portion 6 to the supporting member 7 as well as to its corresponding non-illustrated fixed member 8 in Figure 9. These unillustrated hole portions are not illustrated in the remaining figures in this reference. It is thus apparent from Figure 9 that these unillustrated hole portions are utilized by Narumi for attaching the supporting member 7 to the respective members 6 and 8. The examiner is therefore correct that Narumi is silent as to the particular means of doing this.

On the other hand, the examiner's reliance upon prior art Figure 15 of Ikegame is not misplaced since it does illustrate hole portions 204, 205 of the plate spring 201, thus suggesting an attachment means by means of projections or the like for attaching the entire plate spring 201 to what may be considered corresponding lens holder 102 and lens substrate 105 of prior art Figures 13 and 14, for example. The examiner's reliance on Figures 11 and 12 is also persuasive because they do show the protruding fixing pads 8b

and 4b for attaching the spring member 39 to the respective fixing member 8 and lens holder member 4. Notwithstanding appellants' correct argument in the supplemental brief that the protrusions 8b and 4b do not protrude vertically from the holder, the combined teachings and showings of the two references relied upon by the examiner would have clearly suggested this feature anyway since the examiner relies upon the base reference of Narumi as to that feature. Moreover, in accordance with the contribution of Ikegame set forth in the initial Figures 1-4, the showing at Figure 5 clearly illustrates what appears to be a vertical boss 14 projecting upwardly or vertically from the fixing member 8 in this figure, thus illustrating the vertical projection of a protrusion from the holder in accordance with claim 5 on appeal. In the context of Narumi, the claimed combining hole obviously would mate with these various protrusions or bosses in the illustrated but unlabeled pads 41 in Figure 9 of Narumi. Therefore, we are unpersuaded of appellants' arguments with respect to the rejection of claim 5 on appeal. Since appellants have presented no arguments with respect to dependent claims 6 and 7 in addition to the statement that these claims fall with their respective independent claim 5 on appeal at page 6 of the principal brief on appeal, claims 6 and 7 fall with our consideration of independent claim 5 on appeal.

On the other hand, we reach an opposite conclusion with respect to the rejection of claim 8 on appeal. This claim requires that the plurality of protrusions protrude horizontally

from the holder in contrast to the vertical protrusion requirement of claim 5 on appeal.

Additionally, the claim requires that an edge portion of the plate spring members include a groove for receiving a corresponding one of the horizontal protrusions from the holder.

Again, in the context of the combined teachings and showings of the references relied upon by the examiner, the examiner relies upon Ikegame as to these noted requirements of claim 8 on appeal. As to this claim, the examiner relies upon Figures 16-18 (to which we would add Figure 19) as evidence showing that a spring member 330 in this embodiment in these figures would include a grooved portion which would attach to a holder including projections. Our study of all figures of Ikegame leads us to conclude that there is no teaching or showing of any claimed horizontal protrusion from a holder to which an edge portion of a corresponding plate spring member, such as element 330 in Figures 16-19, would include a groove for receiving a correspond one of the horizontal projections. Figures 16-19 do not appear to show on the lens holder member 320 regions 320e the claimed horizontal protrusions; the same is true of the fixing member 340 in its region 341a. Similarly, either end of spring member 330, that is, end 330a and 330b, do not also correspondingly have grooves which mate with or receive corresponding protrusions as claimed. There are indented portions or notches within the plate regions 330a and 330b of the spring member 330 but they do not appear to us to be in the form of

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a groove or narrow channel. We are thus unpersuaded by the examiner's reasoning at the bottom of page 6 of the answer " that the numerous attachment configurations shown in Ikegame et al, would have led a skilled artisan to have modified the one disclosed in Narumi" to have effectively arrived at the disputed claimed features of claim 8 on appeal.

Since we reverse the rejection of independent claim 8, the rejection of its dependent claims 9 and 10 must also fall.

In summary, we have sustained the rejection of claims 5-7 but have reversed the rejection of claims 8-10 under 35 U.S.C. § 103. Accordingly, the decision of the examiner rejecting claims 5-10 under 35 U.S.C. § 103 is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

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James D. Thomas
Administrative Patent Judge

Parshotam S. Lall
Administrative Patent Judge

Lance Leonard Barry
Administrative Patent Judge

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